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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,719	03/16/2004	Akinori Jitsui	11-236	1653

23400 7590 01/31/2007
POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

EXAMINER

KHUU, HIEN DIEU THI

ART UNIT	PAPER NUMBER
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2863

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/800,719

Applicant(s)

JITSUI ET AL.

Examiner

Cindy D. Khuu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 6-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. "negative load".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Sakai (US 6,774,804).

With respect to claim 1, Sakai discloses a seat (1) occupant identifying apparatus for a vehicle (Fig. 2) comprising; a right and a left sensor (load sensors; 21-22) each of which is responsive to a change in

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preselected physical quantity acting on a seat of a vehicle which arises from occupancy of the seat by a passenger to provide an output indicative thereof (Column 2, lines 59-67), the right sensor being disposed on a right side of a bottom surface of the seat (Figs. 2-3; Column 2, lines 59-60), the left sensor being disposed on a left side of the bottom surface of the seat (Figs. 2-3; Column 2, lines 61-62); and a seat occupant identifying circuit (26; CPU) working to identify whether the passenger on the seat is a first sized occupant (adult) of more than a specified physical size (passenger determination flag) or not (Column 4, lines 14-18), when a total sensor output (load value S) that is the sum of the outputs (Column 3, lines 50-53) of said right and left sensors is greater (over) than a first seat occupant threshold value (predetermined determination threshold value A) (Column 4, lines 29-30), said seat occupant identifying circuit determining the passenger on the seat as the first sized occupant, when the total sensor output decreases below the first seat occupant threshold value after the passenger is identified as the first sized occupant, and only either one of the outputs of said right and left sensors is smaller than a second seat occupant threshold value, the second seat occupant threshold value being (predetermined value D) smaller than the first seat occupant threshold value, said seat occupant identifying circuit keeping determination that the passenger is identified as the first sized occupant (Column 4, lines 55-67).

With respect to claim 2, Sakai further discloses wherein said seat occupant identifying circuit (26) identifies the passenger on the seat as the first sized occupant when the total sensor output is kept greater than the first seat occupant threshold value for a preselected period of time (Fig. 7).

With respect to claim 3, Sakai further discloses wherein the second seat occupant threshold value (predetermined value D) is predetermined to a value selected within a range including the output of one of the right and left sensors subjected to a negative load, which is expected to arise when the first sized occupant (adult) on the seat experiences a lateral G-force (vibration or joggle of passenger) and leans laterally during cornering of the vehicle (Column 6 and 7; lines 62-67 and 1-3 respectively).

With respect to claim 4, Sakai further discloses apparatus comprising a second right sensor (24) and a second left sensor (23) which are disposed on the right side and the left side of the bottom surface of the seat (Fig. 2), respectively, and wherein the total sensor output (load value S) also includes outputs of the second right and left sensors (Column 3, lines 41-52), when either one of a right total output (FR and

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RR) that is the sum of the outputs of said right sensors and a left total output (FL and RL) that is the sum of the outputs of the left sensors is smaller than the second seat occupant threshold value (predetermined value D), said seat occupant identifying circuit (26) keeping the determination that the passenger is identified as the first sized occupant (adult)(Column 4, lines 55-67).

With respect to claim 5, Sakai further discloses wherein when the outputs of said right and left sensors (load value S) both are kept greater than the second seat occupant threshold value (predetermined value D) for a preselected period of time following decrease in the total sensor output below the first seat occupant threshold value (Column 4, lines 26-28), said seat occupant identifying circuit determines the passenger on the seat as a second sized occupant smaller (child) in size than the first sized occupant (adult) (Column 6, lines 47-61).

Allowable Subject Matter

Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record, taken alone or in combination, fails to disclose or render obvious, which makes the following claims allowable over the prior art:

With respect to claim 11, wherein the second seat occupant threshold value further includes a left second seat occupant threshold value corresponding to the left sensor, and a right second seat occupant threshold value corresponding to the right sensor, and wherein the left second seat occupant threshold value is different from the right second seat occupant threshold value to reflect an expected different lateral shift by the passenger.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments filed 11/28/2006 have been fully considered but they are not persuasive.

During patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification. In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969)

Regarding the 35 U.S.C. 102(e) rejections, Applicant argues that Sakai fails to teach or suggest checking whether output of one of the left and right sensors is smaller.

Examiner's position is that the above argued limitations reside under the "when" clause condition "when the total sensor output decreases below the first seat occupant threshold value". The "when" clause is an optional limitation. Therefore, when the total sensor output does not decrease, then Sakai teaches the claimed invention, "when a total sensor output that is the sum of the outputs of said right and left sensors is greater than a first seat occupant threshold value (Column 4, lines 14-18 and 29-30)".

Regarding the 35 U.S.C. 112 rejections, Applicant argues that "zero (0) \pm given loads (e.g., $\pm 5\text{kg}$)" would include a description of a negative load and one of ordinary skill in the relevant art would understand that a load less than zero to be a negative load.

Examiner's position is that Examiner does not understand how it is possible to have a negative 5kg. "kg" is a unit for mass, hence mass cannot have a negative 5kg. Examiner understands that weight equal to force and force is equal to mass times acceleration of gravity. It is possible to have a negative weight, however it is not possible to have zero $\pm 5\text{kg}$ of given loads.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Fax/Telephone Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy D. Khuu whose telephone number is (571) 272-8585. The examiner can normally be reached on M-F, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CME 1/22/07

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